

REMARKS

A. Claim status

Claims 10, 11, and 13 are rejected for the reasons stated below. Applicant has added new claim 14.

B. 35 U.S.C. § 103(a)

Claims 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over international reference WO 92/14372 (“WO ‘372”) in view of U.S. Patent No. 3,805,419 to White (“White”). Applicant traverses this ground for claim rejection for the reasons stated below.

The examiner contends that WO ‘372 discloses all of the limitations of claim 10 except for (1) the insulating material being located but not compressed between the toe box and the lining, and (2) a lining of the cold insulating material having a surface secured to the underside of the toe box. The examiner contends that White teaches an insulating layer 5 for a toe protected boot located, uncompressed, between the toe box 1 and a lining 6. The examiner has argued that it would have been obvious to one of ordinary skill in the art at the time the invention was made to place an insulating layer between the toe box and the liner of WO ‘372 as taught by White to insulate the boot. The examiner further has stated that 35 U.S.C. § 103 also likely bars patentability if a combination of familiar elements according to known methods does no more than yield predictable results.

Claims 10, 13, and 14 each require that the thickness of the cold insulating material be constant in the toe box area and the area adjacent to the toe box area. The cited references do not disclose either claim limitations. WO ‘372 teaches an insulating layer having a decreased thickness in the region underlying the toe box (and the arch protector), as shown in Figs. 1, 2,

and 4. White teaches a safety toe cap assembly to be inserted into an article of footwear; the thickness of the foam 5 within the toe cap assembly is constant but White does not disclose any cold insulating material in the area adjacent to the toe cap. [Fig. 1.]

Applicant has not combined familiar elements according to known methods to do no more than yield predictable results. Rather, applicant has modified a conventional familiar toe cap to accommodate therein a layer of cold insulating material in its uncompressed state and provide a constant thickness of cold insulating material in the area of the toe cap and the area adjacent to the toe cap. Neither of these features is taught or suggested in the cited references. The claimed invention provides a protective boot with superior insulating properties by overcoming difficulties in the proper art relating to compression of a cold insulating layer between an outer layer and a toe cap beneath the outer layer.

For the reasons stated above, the combination of WO '372 and White does not yield the claimed invention. Accordingly, applicant submits that claims 10 and 14 are allowable over the cited references. Claim 11 is dependent on claim 10. Applicant submits that this claim also is allowable over the cited references at least for the reasons stated above with respect to claim 10.

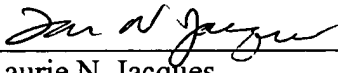
CONCLUSION

For the reasons stated above, the claims presented herein satisfy the statutory requirements of patentability and are patentable over the cited references. Applicant respectfully submits that claims 10, 11 and 14 are in condition for allowance and requests an indication of allowability.

Respectfully submitted,

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